

WARREN COUNTY AGRICULTURAL DEVELOPMENT BOARD
THE DEPARTMENT OF LAND PRESERVATION
500 MT PISGAH AVE, P.O. BOX 179
OXFORD, NJ 07863

RESOLUTION NO. 20-14

On motion by Mr. Baduini, and seconded by Mr. Burke, the following resolution was adopted by the Warren County Agricultural Development Board at a meeting held November 19, 2020.

**RESOLUTION OF THE WARREN COUNTY AGRICULTURE
DEVELOPMENT BOARD APPROVING THE APPLICANT'S REQUEST
FOR A SITE SPECIFIC DETERMINATION IN THE MATTER OF
PLAINVIEW GROWERS, INC., INC. FARM, BLOCK 105, LOT 8 IN
ALLAMUCHY TOWNSHIP, WARREN COUNTY, NEW JERSEY,
RIGHT-TO-FARM APPLICATION TO PERMIT INSTALLATION OF
COMPRESSED NATURAL GAS TRAILERS**

WHEREAS, pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1 et seq. and the State Agriculture Development Committee regulations, N.J.A.C. 2:76-2.3(a), a commercial farm owner or operator may make a request to the County Agriculture Development Board (hereinafter "Board") to determine whether its operation constitutes a generally accepted agricultural management practice; and

WHEREAS, Plainview Growers, Inc., (the "Applicant") applied for a Site Specific Agricultural Management Practice ("SSAMP") determination for their property located at 101 Gibbs Road in the Township of Allamuchy, New Jersey, and known as Block 105, Lot 8 on the Township Tax Map ("Property")

WHEREAS, pursuant to N.J.A.C. 2:76-2.3(b), the Board advised the State Agriculture Development Committee and Allamuchy Township of the request for a SSAMP determination; and

WHEREAS, pursuant to N.J.S.A. 4:1C-9 and N.J.A.C. 2:76-2.3, upon receipt of a request for a SSAMP, the Board must first determine whether the Applicant's operation satisfies at least one of the following two conditions:

(1) It is located in an area of which, as of December 31, 1997, or thereafter, agriculture is a permitted use under Municipal zoning ordinances and is consistent with the Municipal master plan; or

(2) The commercial farm was in operation as of the effective date of the amended Right to Farm Act, July 2, 1998; and

WHEREAS, based upon the application documentation submitted by the Applicant, including a copy of the Allamuchy Township Zoning Map and pertinent sections of the Allamuchy

Township Zoning Ordinance, the Board finds that the Property is located in the “Rural Residential” Zone which, as of December 31, 1997, or thereafter, agriculture is a permitted use pursuant to Allamuchy Township Municipal Zoning Ordinance §190-405 and is consistent with the Allamuchy Township Municipal master plan; and

WHEREAS, pursuant to N.J.S.A. 4:1C-3 and N.J.A.C. 2:76-2.1 defining “commercial farm”, the Board also must determine whether the Applicant’s operation satisfies at least one of the following two requirements:

- (1) a farm management unit of no less than 5 acres, producing agricultural or horticultural products worth \$2,500.00 or more annually and satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1994; or
- (2) A farm management unit of less than 5 acres, producing agricultural or horticultural products for \$50,000.00 or more annually and otherwise satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1994; and

WHEREAS, based upon the application documentation submitted by the Applicant, including a copy Applicant’s 2020 Application for Farmland Assessment, the Board finds that Applicant’s farm management unit includes the 140+ acres owned by Applicant and therefore is not less than 5 acres;

WHEREAS, based upon the application documentation submitted by the Applicant, including two receipts from sales of agricultural goods produced on the farm showing income of over \$2,500, the Board finds that the Applicant’s farm management unit produces agricultural and horticultural products in excess of \$2,500.00 and satisfies the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1994; and

WHEREAS, pursuant to N.J.S.A. 4:1C-9, to be eligible for protection under the Right to Farm Act, the agricultural operation must also: (1) conform to agricultural management practices adopted by the Committee; (2) comply with all relevant Federal or State statutes and regulations; and (3) not pose a direct threat to public health and safety; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3(i), the Board scheduled a public hearing regarding Applicant’s request for a SSAMP determination which was noticed to take place at the October 15, 2020 Board meeting;

WHEREAS, the Applicant provided the Board with proof of written notice having been made in accordance with the requirements of N.J.S.A. 2:76-2.8(c), including, but not limited to, proof of written notice to all property owners within 200 feet of Applicant’s Property, Allamuchy Clerk and Land Use Board, the State Agriculture Development Committee, the Warren County Planning Board and proof of publication of the Notice of Hearing in the New Jersey Star-Ledger on October 5, 2020; and

WHEREAS, the Applicant was represented by Arie Van Vugt, President of Plainview Growers, Inc., and Joe Van Vugt, Operations Manager of Plainview Growers, Inc., being joined

by David Fenicle, Director of Operations for Compass Natural Gas, who provided testimony under oath; and

WHEREAS, the Township of Allamuchy did not attend the hearing but their Engineer, Paul Sterbenz, submitted a letter dated October 5, 2020 which stated that the Township did not object to the CADB conducting a review of and a hearing on the application filed by Applicant;; and

WHEREAS, several members of the public were also present, questioned the Applicant, and offered statements;

WHEREAS, Arie Van Vugt, Joe Van Vugt, and David Fenicle gave the following testimony about their property and the compressed natural gas trailers that they want to place on the property:

- a. Plainview Growers, Inc. is a large growing (greenhouse) operation in Allamuchy Township.
- b. Currently the greenhouses are heated by burning wood pellets in a biomass boiler. They also use No. 2 heating oil as a standby.
- c. The biomass boiler has caused them some problems with the NJDEP and they would like to go to a cleaner fuel source.
- d. They have contracted with Compass Natural Gas (CNG), a company headquartered in Pennsylvania, to switch to compressed natural gas.
- e. They are seeking to establish a 65' x 90' area for natural gas conversion to fuel its greenhouse heating system; and
- f. They are seeking four bays for three compressed natural gas trailers. They will be box trailers 45 feet in length, which will be no different from propane trucks/trailers.
- g. The trailers would decompress the natural gas to a liquid gas which would run underground, which would be like any natural gas pipeline to service the greenhouses.
- h. There would be three trailers in four bays. The fourth bay would provide for a swap where when an empty trailer needs to be taken out and a full trailer would be put into the fourth bay and then the empty trailer would be removed. At no time would there be more than three full trailers on the property. The trailers would be exchanged at night between 2:00 a.m. and 4:00 a.m. The Applicants testified that they believe at peak heating season they will use approximately one and one-half trailers per day. During other times of the year they may use as little as one half a trailer per day, and for the three months of the summer they would not need to use a trailer at all. They have contracted with CNG Company to have 54 trailers per year. Mr. Fenicle testified that a trailer holds the equivalent of 2,400 gallons of No. 2 heating oil fuel.
- i. The docks for the trailers would be located approximately 1,200 feet from the road and approximately 1,000 feet from the nearest property line.
- j. This farm is a preserved farm. The SADC confirmed that this application is compliant with the Deed of Easement because the proposed trailers would be used for an agricultural purpose.

WHEREAS, the meeting was opened to members of the public to ask questions regarding this application. Questions were received from James Vanator, Nancy Schiesl, Tim Cook and

Anthony DiDomenico. The Applicant and Mr. Fenicle gave the following testimony in response to the questions from those members of the public:

- a) The truck route for these trailers would most likely be Exit 19 off of Route 80 to County Route 612 to Long Bridge Road to Shades of Death Road to Gibbs Road entering through the main entrance of the farm.
- b) The trailers are the equivalent of 2,400 gallons of No. 2 heating oil fuel which should require the farm to have half the number of trucks as they currently have for No. 2 heating oil;
- c) When addressing safety concerns, Mr. Fenicle stated that they will be following the industry standards around the trailers and berms. They will be well within the setbacks required by State and Fire Code (25 feet from buildings). He testified he believes the trailer decompression unit would be 150 feet from the nearest building (Applicant's greenhouse).
- d) Mr. Fenicle gave testimony regarding safety factors that compressed natural gas is not liquid, so if there were to be a puncture to the tank, because the gas is lighter than air it would not pool onto the ground which could cause a safety concern and said it would escape into the air. He also testified that the trailers are made of carbon fiber and they are DOT permitted to drive on the road. They contain a fire suppression system on the trailer, each trailer has four chambers so if one were to be punctured the other three would not leak out, and only one-fourth of the tank would leak out. He further testified that there has been DOT testing regarding gunshots penetrating the tank and that it would leak out of the one chamber but not blow up.
- e) Residents expressed concern regarding trucks clipping the power lines and a past incident which resulted in a fire. Mr. Fenicle testified that the company trains its drivers including specialized training because as part of their job they also work at a gas field. So they receive a specialized training that other truck drivers don't receive.
- f) Mr. Fenicle testified that they would also do training with all the local first responders, so they understand what these trailers are in case there is an event in which emergency services are required. This training of first responders is not required by law, but the company will do so anyway.
- g) A resident questioned whether the compressed natural gas was explosive. Mr. Fenicle testified it was not as flammable as propane, the BTU value was lower, and again explained that propane is liquid so it pools.
- h) Upon request from a resident regarding future operation expansion, the applicant testified that their request is limited to three trailers with four bays, the empty bay was for the trailer swap, and that any expansion would have come back before the CADB.
- i) The applicant testified that when they approached the municipality, they were not issued any denials. Instead, they were just advised by the Township that they should bring this

application to the CADB. In addition, they were provided a letter from the Township Engineer who did not oppose the CADB hearing this application.

WHEREAS, when asked for comments from the public, the residents said that most of their questions had been answered, but they expressed concern about truck traffic on the roads and truck routes and weight limits which were not necessarily in the jurisdiction of the CADB, and they expressed concern regarding the safety of these trailers as well as the possibility of power lines being clipped by trailers and causing a fire.

NOW, THEREFORE BE IT RESOLVED, that based upon the evidence submitted and testimony presented by the Applicants, and David Fenicle of CNG Company and questions/comments from the public, the Board finds as follows:

- 1) That the Board previously determined that Applicant operates a commercial farm in accordance with the requirements of N.J.S.A. 4:1C-9; and
- 2) All testimonies from Arie Van Vugt, Joe Van Vugt, David Fenicle and comments from members of the public were considered; and
- 3) That the Applicant is engaged in a generally accepted agricultural operation or practice pursuant to N.J.A.C. 2:76-2B.2, specifically a commercial grower operation; and
- 4) That the Board retains jurisdiction of this matter; and
- 5) While a specific Township regulation has not been identified, the Applicant has a legitimate farm-based reason not to comply with any municipal regulations related to establishing a 65' x 90' area for natural gas conversion to fuel its greenhouse heating system; and
- 6) That the Applicant must comply with all health, safety and welfare requirements; and
- 7) That the Township of Allamuchy shall permit the Applicant to establish a 65' x 90' area for natural gas conversion to fuel Applicant's greenhouse heating system which will include creating four bays for three compressed natural gas trailers and one bay designated for the swapping of an empty trailer with a full trailer.

BE IT FURTHER RESOLVED, that the Board shall forward a copy of its written decision of the SSAMP Resolution to Plainview Growers, Inc. (Arie and Joe Van Vugt), the Township of Allamuchy, the State Agriculture Development Committee (SADC), and any other individuals or organizations deemed appropriate by the Board within 30 days of the memorialization of this recommendation.

Roll Call: Mr. Schnetzer – yes; Mr. Bodine – yes; Mr. Baduini – yes; Mr. Burke – yes;
Mr. Nyland – yes; Mrs. Watters – yes; Mr. Menegus – yes.

CERTIFICATION

I, Teresa Kaminski, Secretary to the Warren County Agriculture Development Board, do hereby certify the foregoing to be a true and accurate copy of a Resolution adopted by the Warren County Agriculture Development Board at a meeting of said Board held on November 19, 2020 to memorialize the Board's action on October 15, 2020 in which a motion was made by Mr. Baduini and seconded by Mr. Burke and Roll Call at said meeting was as follows: Mr. Schnetzer – yes; Mr. Bodine – yes; Mr. Baduini – yes; Mrs. Watters – yes; Mr. Burke – yes; Mr. Nyland – yes; Mr. Menegus – yes.



Teresa Kaminski